IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 8TH FEBRUARY 2007 / 19TH MAGHA 1928

WP(C).No. 4415 of 2007(A)

PETITIONER:

KEY EXPORTS, KARIM KALLATHANI,
ULLANAM, MALAPPURAM DISTRICT, REPRESENTED
BY YAHYA.C.P., S/O.ALAVI KUNJU, PARTNER,
RESIDING AT KARAT HOUSE, KODINHI,
MALAPPURAM DISTRICT.

BY ADV. SRI.P.VIJAYA BHANU
SMT.K.S.CHANDRIKA

RESPONDENTS:

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1. THE DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM.

2. THE DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
KOZHIKODE.

3. THE COMMERCIAL TAX OFFICER (ON
DEPUTATION), NILAMBUR.

4. THE INTELLIGENCE OFFICER,
SQUAD NO.III, KOZHIKODE.

5. THE SALES TAX OFFICER,
TIRURANGADI, MALAPPURAM DISTRICT.

6. THE DEPUTY TAHSILDAR (ARREAR
COLLECTION), TALUK OFFICE, THIRURANGADI.

BY GOVERNMENT PLEADER, SRI.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

WP(C).No.4415 of 2007-A

Dated this the 8th day of February, 2007.

JUDGMENT

The petitioner is aggrieved by the sales tax assessment for the year 2004-05. He filed Ext.P5 appeal challenging the said assessment order. Its stay petition filed along with the appeal was disposed of by Ext.P8 dated 17-1-2007. The petitioner was directed to pay 50% of the balance tax due for the year 2004-05 and also to furnish security for the remaining 50%. According to the petitioner, it is a mechanical order passed without application of mind. Going by the facts of the case, I feel that the direction that the petitioner need only pay 50% during the appeal is a fair and reasonable direction especially going by the principles of balance of convenience stated by the Apex Court in Assistant Collector, CE. Chandan Nagar Vs. Dunlop India Ltd. (AIR 1985 SC 330). Further, Ext.P8 is an interim order passed in the discretion of the appellate authority. This Court can interfere with the same, if it is shown manifestly arbitrary or perverse. I find that no ground has been made out warranting interference with

Ext.P8 order. Accordingly, the writ petition is dismissed.

K.BALAKRISHNAN NAIR,
MS JUDGE.